IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No. 239 of 2004

Between:

Smt.P.Laxmi, W/o.Limbaiah,
R/o.Kama Reddy village,

S.S.Nagar Mandal, Nizamabad, A.P.,

..... PETITIONER.

AND

1. A.P.State Road Transport Corporation, rep. by

Managing Director, Musheerabad, Hyderabad.
2. APSRTC, rep. by Depot Manager, Kama Reddy, Nizamabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate writ or writ of mandamus, direction, declaration or order by declaring the action of respondents-authorities in not paying the monetary benefits in lieu of employment as illegal, arbitrary, discriminatory, unreasoanble, unjust, without jurisdiction and opposed to public policy, violative of Articles 14, 21 of Constitution of India and also violative of principles of natural justice and issue consequential directions to pay the monetary benefits in lieu of compassionate appointment as per the orders passed in W.A. No.1494/2000, dt.3-10-02 with interest @ 12% p.a. for delayed payments from the date of death of petitioner's husband i.e., 4-11-1980 to till realisation and award costs of all these litigations (4).

Counsel for the Petitioner: Smt.K.SARALA MAHENDER REDDY

Counsel for the Respondents : Mr.K.HARINATH,

STANDING COUNSEL FOR

APSRTC.

The Court made the following :

ORAL ORDER:

Heard both the counsel.

The petitioner is the wife of late Limbaiah, who worked as Electrician and died while working in A.P.S.R.T.C. at Kamareddy on 4-11-1980. It is stated that after the death of her husband, her son who studied 10th Class, made representations in 1990, 1995 and 1996 to consider his case for compassionate appointment in any suitable post. But the said representations have not been considered. It is further stated that in similar circumstances, one Habeeb, S/o. Mohd. Osman, who died on 18-3-1980 was considered and appointed as Conductor on 3-4-1996, but the case of the petitioner's son was not considered and, therefore, the son of the petitioner filed W.P.No.9451 of 1997, which was disposed of with a direction to consider the representation dated 1-2-1997. The Regional Manager, though initially inclined to grant monetary benefits, but by his proceedings dated 24-5-2000, he stated that neither the son of the petitioner is eligible for employment nor the petitioner is entitled to claim any monetary benefit. Under those circumstances, the son of the petitioner filed another writ petition in W.P.No.11846 of 2000 which was dismissed on 5-7-2000 against which Writ Appeal No.1494 of 2000 was filed and a Division Bench of this Court disposed of the same on 3-10-2002 with the following directions.

> "…….However, at the time of hearing, the learned counsel for the petitioner – appellant submitted that the petitioner was not paid even pecuniary benefits in lieu of appointment. We have perused the records. That was not an issue urged before the learned single Judge in the writ petition. Suffice it to state that if in fact the petitioner was not paid the pecuniary benefits in lieu of compassionate appointment so far, the concerned authorities of the Andhra Pradesh State Road Transport Corporation shall pay the same to the petitioner subject to his fulfilling the required formalities, if any."

It is pertinent to note that in fact the Regional Manager, APSRTC, Nizamabad, vide his proceedings No.E3/684/(1)/98-RM:NZB dated 20-5-2000, while considering the case of the petitioner for compassionate appointment held that the son of the petitioner is not eligible for employment as per Circular and advised to claim additional monetary benefit in lieu of employment. But, however, that was also denied by another Memo dated 24-5-2000 on the ground that his father died on 4-11-1980, whereas, additional monetary benefit scheme in lieu of employment has come into force from 13-8-1981. The aforesaid judgment in the writ appeal directing APSRTC to pay the monetary benefit in lieu of compassionate appointment has become final and, therefore, the respondents cannot deprive the pecuniary benefits in lieu compassionate appointment to the petitioner and her son.

In the counter, it has been reiterated that the petitioner is not eligible even for the monetary benefits as per the proceedings of the Regional Manager, dated 24-5-2000.

It is the case of the petitioner that in fact compassionate appointment was also given to Mohd. Habeeb, on 3-4-1996 even though his father Mohd.Osman died on 18-3-1980. Therefore, it is incorrect to state that no scheme is existing even for the payment of monetary benefit or for the compassionate appointment. As the son of the petitioner was not eligible at the time of death of the husband of the petitioner and as the application for compassionate appointment was filed only after ten years, the Division Bench directed for payment of monetary benefits. Therefore, the respondents are bound by the said order.

Learned Standing Counsel for APSRTC, however, submits that in the writ appeal filed by the son of the petitioner, such a direction was given, but whereas the petitioner filed this writ petition for the payment of monetary benefits and, therefore, there cannot be any two payments of pecuniary benefits, one to the son of the petitioner and another to the petitioner. However, the learned counsel for the petitioner submits that there are no conflicting versions of the petitioner and her son and that they and other family members are entitled for only one payment of pecuniary benefits.

Learned Standing Counsel for APSRTC submits that to avoid contempt proceedings in the writ appeal filed by the petitioner's son, it is just and proper for the son to give

his no objection for payment of pecuniary benefits to the petitioner and the petitioner's son may file a consent letter for payment of monetary benefits to her alone.

Having regard to the facts and circumstances of the case, the respondents are directed to pay the pecuniary monetary benefits as directed by the Division Bench in W.A.No.1494 of 2000 to the petitioner as she alone is entitled for such payment of monetary benefits, within a period of two months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No order as to costs.

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4th August 2004. **(V.ESWARAIAH, J.)**

ARS

To

1. A.P.State Road Transport Corporation, rep. by

Managing Director, Musheerabad, Hyderabad.
2. APSRTC, rep. by Depot Manager, Kama Reddy, Nizamabad.

3. Two C.D. copies.